



HUMAN RIGHTS

LAW International, Malaysian and Islamic Perspectives

Edited by
Abdul Ghafur Hamid
@ Khin Maung Sein

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Human Rights Law: International, Malaysian and Islamic Perspectives

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Abdul Ghafur Hamid @ Khin Maung Sein

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Editor's Introduction

The world is changing dramatically in the present age of the Internet, rapid communication and movement of persons, and the free flow of messages and ideas across international borders. Ordinary people these days increasingly know more about their fundamental rights. As a result, human rights are not only at the forefront of concerns today for prosecutors and criminal lawyers but also for multinational corporations, businessmen, trade unions, workers in the global economy, and even for the man on the street. The world has become a global village and what happens to individuals in one country often has profound impact on those in other countries.

Whatever the rationale behind the origin of human rights is – be it the command of God Almighty, the theory of natural law, or the idea of a “higher” norm that dictates States to observe the rights of individuals – the subject of human rights has become one of the top priorities for every State in the world. This is truly reflective of the commitment of States proclaimed during the World Conference on Human Rights in 1993 to the effect that “Human rights and fundamental freedoms are the birthright of all human beings; their protection and promotion is the first responsibility of Governments.”

The idea of embarking on a research project exploring the width and depth of “International Human Rights Law” originated during brainstorming sessions of the International Law and Maritime Affairs (ILMA) Research Unit of the Ahmad Ibrahim Faculty of Laws, International Islamic University Malaysia. The ILMA Research Unit was established in the Faculty with the primary objective of “promoting interdisciplinary research and consultancy works on specialized areas of international law, including, but not limited to, international human rights law, international trade law, and maritime law.” Due to current trends towards opening up more democratic rights globally as well as locally, members of the Unit decided to take on the subject of human rights and to structure its exploration in such a way that it begins with international human rights law, continues with the Malaysian position in respect of human rights, and ends with the Islamic perspective of human rights, which is the niche area of the University.

The work has accordingly been divided into three parts and consists of 24 chapters. Part I evaluates the nature, scope and effectiveness of the

international legal framework for human rights. The first three chapters deal with the genesis and perspectives of human rights, sources, and the issue of enforcement, respectively. The other chapters give an in-depth analysis of selected fundamental human rights. Within the space constraints, it was necessary to isolate certain rights for consideration. The jurisprudence of the Human Rights Committee and the European Court of Human Rights influenced the selection of rights with the emphasis on rights most commonly claimed by individuals. This is also the main reason why civil and political rights take priority over others. Elements of economic, social and cultural rights and collective rights are, nevertheless, considered where possible.

Part II is entitled "Malaysia and Human Rights: Traditions versus Universality". Originally conceived as a comprehensive analysis of the Malaysian position in relation to the application of international human rights law and the contemporary human rights issues in Malaysia, the contributors who responded have tried their best to present a picture of Malaysia in terms of human rights. It must be noted, however, that after finalizing the chapters, the Government of Malaysia has introduced a number of reforms on human rights, inclusive of announcements repealing the Internal Security Act and other laws restricting the right to liberty, amending laws restricting freedom of assembly, and amending section 15 of the Universities and University Colleges Act 1975 in order that university students can enjoy their civil and political rights. All these proactive movements by the Government towards respecting fundamental human rights in Malaysia are to be warmly welcomed.

The final Part of the work looks at human rights from the Islamic perspective. In other words, this Part elaborates the position of *Shari'ah* (Islamic law) in respect of human rights. The contributors are mostly scholars from the Islamic Law Department of the Ahmad Ibrahim Kuliyah of Laws, International Islamic University Malaysia. The Part begins with chapters dealing respectively with the Islamic concept of human rights, a comparison between Islamic human rights and international human rights instruments and basic human rights in Islam. They are followed by an analysis of "Mechanisms for Protection and Enforcement of Human Rights in Islam". The later chapters consider the hotly debated issues concerning criminal punishment under Islamic law and women's rights, terrorism, jihad, freedom of religion, apostasy and blasphemy from an Islamic law perspective.

This work is designed to present the three aspects of human rights law in a clear and accessible fashion, addressing a number of key questions. Although structured to form a coherent exposition of human rights law, each chapter can be read as a self-contained paper, reflecting the distinct

perspective of its contributor(s). It aims to be a resource of value to all those interested in exploring and studying human rights law.

I am greatly indebted to all those who so readily agreed to contribute chapters to this work. My sincere appreciation also goes to those at Sweet & Maxwell Asia for their excellent job done. It is hoped that this volume will encourage debate and dialogue on human rights law, be that international, Malaysian or Islamic.

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January 1, 2012

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Contents

<i>Editor's Introduction</i>	vii
<i>About the Contributors</i>	xi
<i>Table of Cases</i>	xxix
<i>Table of Statutes</i>	xxxvii

PART I **Human Rights Law:** **The International Framework**

<i>Chapter 1</i>	
Human Rights: Genesis and Perspectives	3
<i>Abdul Haseeb Ansari and Umar A Oseni</i>	
1.1 Introduction.....	3
1.2 The influence of the early liberal philosophers	4
1.3 Human rights law's challenge to the traditional understanding of international law	7
1.4 Categorisation of human rights.....	10
1.5 The ideological debate: Universalism and cultural relativism	12
1.5.1 Universality of human rights.....	13
1.5.2 Cultural relativism	14
1.5.3 The attitude of Asian countries towards the universality of human rights.....	16
1.6 Human rights in the 21st century	18
1.6.1 Future of international human rights law.....	19
1.6.2 Right to live in a healthy environment.....	20
1.6.3 Gay rights.....	21
1.6.4 Preventive detentions.....	22
1.6.5 Discrimination against women.....	23
1.7 Conclusion	23

<i>Chapter 2</i>	
International Human Rights Instruments:	
Hard and Soft Law	25
<i>Haniff Ahamat</i>	
2.1 Introduction.....	25
2.2 Human rights provisions of the United Nations Charter.....	26
2.3 The UDHR: Its history, status and continuing relevance.....	28

2.4	The ICCPR and ICESCR	31
2.5	Conclusion	35

Chapter 3

Enforcement: The Key Human Rights Challenge 37

Abdul Ghafur Hamid @ Khin Maung Sein

3.1	Introduction.....	37
3.2	Primacy of domestic enforcement.....	38
3.3	Enforcement at universal level	40
3.3.1	Monitoring mechanisms established by the United Nations.....	41
3.3.2	Monitoring mechanisms established by treaties.....	41
	Human Rights Committee (HRC) under the ICCPR	42
	Individual complaint procedure.....	43
3.3.3	Effectiveness of human rights enforcement at the universal level.....	45
3.4	Regional approaches to human rights enforcement.....	45
3.5	Coercive compliance: Sanction and humanitarian intervention	47
3.5.1	Sanction.....	48
	Sanctions adopted by individual States: countermeasures.....	48
	Sanctions imposed by the Security Council.....	49
3.5.2	Humanitarian intervention	50
3.6	Human rights enforcement against multinational corporations.....	51
3.7	Conclusion.....	55

Chapter 4

The Right to Life and Freedom from Torture 57

Khairil Azmin Mokhtar

4.1	Introduction.....	57
4.2	The right to life.....	57
4.2.1	The right to life in international human rights law	57
4.2.2	The right to life under the Federal Constitution of Malaysia.....	59
4.2.3	The right to life and State obligations.....	61
4.2.3.1	The negative obligations.....	61
4.2.3.2	The positive obligations	62
4.2.4	Death penalty	63
4.2.4.1	Death penalty and international human rights laws.....	64
4.2.4.2	Death penalty and its exceptions in Malaysia	66
4.2.5	The right of the unborn and the prohibition of abortion	67
4.2.5.1	The right of the unborn and the prohibition of abortion in international human rights laws....	68
4.2.5.2	The prohibition of abortion in Malaysia and its exceptions	69

4.2.6	Is there a right to die? Euthanasia	70
4.3	Freedom from torture	72
4.3.1	The prohibition of torture in international humanitarian law	73
4.3.2	The prohibition of torture in international human rights laws	75
4.3.3	Freedom from torture under the Malaysian Constitution	76
4.4	Forms of torture	78
4.5	Torture and cruel, inhuman or degrading (CID) treatment	82
4.6	War on terror and government sanctioned torture	83
4.7	Extraordinary rendition	84
4.8	Conclusion	86

Chapter 5

The Right to Liberty: A Pillar of Freedom in a Democratic Society

87

Abdul Ghafur Hamid @ Khin Maung Sein

5.1	Introduction	87
5.2	The right to security of the person	88
5.3	Deprivation of liberty	89
5.3.1	Nature and meaning of "deprivation of liberty"	89
5.3.2	Preventive detention and the right to liberty	91
5.3.3	"Lawfulness" of the deprivation of liberty	93
5.4	Freedom from "arbitrary" arrest or detention	94
	"Arbitrariness" of arrest or detention	95
5.5	Informing reasons for arrest and promptly informing the charges	97
5.6	Bringing promptly before a judge	98
5.6.1	Promptly	98
5.6.2	Judge or other officer authorised by law to exercise judicial power	99
5.6.3	Length of pre-trial detention: within a reasonable time	99
5.7	Challenging lawfulness of detention: right of <i>habeas corpus</i>	100
5.8	Right to compensation for unlawful arrest or detention	102
5.9	Conclusion	103

Chapter 6

The Right to a Fair Trial: The Perspective of

International Law and the Malaysian Experience

105

Raja Badrol Hisham Raja Mohd Ali

6.1	Introduction	105
6.2	The Malaysian position on ICCPR	106
6.3	Fundamental elements of fair trial	106
6.3.1	Equality before the courts and tribunals	106
6.3.2	Access to court and to public hearing	107
	To initiate proceedings or sue at law	108
6.3.3	Right to competent, independent and impartial courts and tribunals	108

6.3.4	Right to equality before the law	110
6.3.5	The presumption of innocence	111
6.3.6	Right to silence/freedom from compulsory self-incrimination	112
6.3.7	Right to expeditious hearings	113
6.3.8	Right to be informed of the charge	115
6.3.9	Right of defence	115
6.3.10	Trial in one's own presence	117
6.3.11	The principle of guilt.....	118
6.3.12	Freedom from double jeopardy.....	119
6.3.13	The principle of legality or " <i>nullum crimen nullapoena sine lege</i> "	119
6.4	Preventive detention in Malaysia: A violation of human rights to a fair trial?.....	120
6.5	Conclusion.....	122

Chapter 7

The Right to Equality and Non-Discrimination 123

Haniff Ahamat

7.1	Introduction.....	123
7.2	Relevant provisions and underlying concepts.....	124
7.3	The special position of the non-discrimination principle.....	125
7.4	What constitutes "discrimination"?	127
7.5	International Convention on Elimination of Racial Discrimination (ICERD).....	130
7.6	Convention on Elimination of Discrimination Against Women (CEDAW)	132
7.7	Affirmative action.....	132
7.8	Private sector discrimination	136
7.9	Islam and non-discrimination	137
7.10	Conclusion.....	139

Chapter 8

Freedom of Expression and Freedom of Religion 141

Juriah Abd Jalil and Mohd Hisham Mohd Kamal

8.1	Introduction.....	141
8.2	Freedom of expression.....	141
8.2.1	Freedom of expression and the new communication technology	142
8.2.2	The provision under the UDHR and the ICCPR.....	143
8.2.3	The importance of freedom of expression	146
8.2.4	Rights protected under this freedom.....	148
8.2.5	Limitation to freedom of expression.....	150
8.2.6	Restriction on the ground of national security	151
8.3	Freedom of religion.....	152
8.3.1	Freedom of religion in the UDHR and the ICCPR.....	152
8.3.2	Freedom to change religion.....	155
8.4	Conclusion.....	156

Chapter 9**The Right to Work and the Right to Education..... 159***Nik Ahmad Kamal Nik Mahmud*

9.1	Introduction.....	159
9.2	The right to work.....	160
9.2.1	Is there a guarantee of the right to work?	161
9.2.2	Elements of the right to work	162
	Access to employment	163
	Free choice in employment.....	164
	Freedom from arbitrary dismissal	165
9.3	The right to education	165
9.3.1	The right to education in international human rights instruments.....	166
9.3.2	Access to education	166
9.3.3	Aims and objectives of education.....	168
9.3.3	Academic freedom.....	170
9.3.4	The right to human rights education.....	170
9.4	Conclusion.....	172

Chapter 10**Women's Rights and the Impact of CEDAW..... 173***Nora Abdul Hak*

10.1	Introduction	173
10.2	Women's rights as human rights	173
10.3	CEDAW and its main provisions	174
10.4	CEDAW and contemporary women's rights issues	176
10.4.1	Non-discrimination in employment and work place.....	177
10.4.2	Non-discrimination in marriage and family	178
10.4.3	Violence against women.....	183
10.4.4	Trafficking in women	186
10.5	Reservations to CEDAW.....	189
10.6	The enforcement of CEDAW	192
10.6.1	Weak enforcement mechanisms	193
	10.6.1.1 Weak reporting mechanism.....	193
	10.6.1.2 Weak adherence to the normative principles of the Convention.....	194
10.6.2	The Optional Protocol: Enhancing enforcement.....	194
	10.6.2.1 The communications procedure	194
	10.6.2.2 The inquiry procedure	195
10.7	Conclusion.....	195

Chapter 11**Protection of Children's Rights..... 197***Farah Nini Dusuki*

11.1	Introduction.....	197
11.2	Theoretical perspectives of children's rights	199

11.3	International children's rights.....	201
11.3.1	Introduction.....	201
11.3.2	The United Nations and children's rights.....	202
11.4	Convention on the Rights of the Child.....	203
11.4.1	Introduction.....	203
11.4.2	General aims and classifications of the Convention's rights.....	205
11.4.3	Enforcement of children's rights.....	207
11.4.3.1	General Measures of Implementation	208
11.5	Main areas of concern in respect to children's rights	209
11.5.1	Violence, abuse and neglect	210
11.5.2	Juvenile justice.....	210
11.5.3	Children and armed conflict	212
11.6	Children's rights in Malaysia.....	213
11.6.1	Introduction.....	213
11.6.2	Legal framework on children's rights.....	214
11.6.3	General issues of concern	216
11.7	Conclusion	219

Chapter 12

Rights of "Refugees" and "Migrant Workers"

Mohammad Naqib Ishan Jan

12.1	Introduction.....	221
12.2	Refugees, asylum seekers and internally displaced persons: Are they the same or different?	221
12.3	United Nations Convention Relating to the Status of Refugees.....	226
12.3.1	Definition of refugee	227
12.3.2	Rights of refugees	236
12.3.3	UN High Commissioner for refugees	238
12.4	Migrant workers.....	240
12.4.1	Definition of migrant workers	240
12.4.2	Key factors driving migration	241
12.4.3	Problems facing migrant workers	242
12.4.4	Rights of migrant workers.....	243
12.5	Malaysia and the issue of migrant workers.....	248
12.6	Conclusion.....	249

Chapter 13

Right to Self-Determination, and Rights of

Indigenous Peoples and Minorities..... 251

Mohammad Naqib Ishan Jan

13.1	Introduction.....	251
13.2	Right to self-determination	251
13.2.1	The origin and development of the right of self-determination	252
13.2.2	Definition and forms of self-determination.....	254

13.2.3	Peoples and their right of self-determination	256
13.2.4	UN decolonisation and self-determination	257
13.2.5	Palestinians and the right of self-determination: A case study.....	258
13.2.6	Self-determination today	263
13.3	Rights of minorities.....	263
13.3.1	Definition of minorities.....	264
13.3.2	Minorities rights under Article 27 of the ICCPR.....	265
13.3.3	The UNGA Declaration on Minorities Rights, 1992	267
13.4	Rights of indigenous peoples	268
13.4.1	Definition of indigenous peoples	268
13.4.2	Indigenous peoples' rights	269
13.4.2.1	The right to be on ancestral lands and enjoy the benefits thereof	270
13.4.2.2	The economic, social, and political rights of the indigenous peoples	271
13.4.2.3	The indigenous peoples' "right to self-determination"	272
13.4.2.4	Protection of the cultural heritage of indigenous peoples	273
13.5	Conclusion.....	276

PART II

Malaysia and Human Rights: Traditions versus Universality

Chapter 14

Application of International Human

Rights Law in Malaysia

Mohd Hisham Mohd Kamal

14.1	Introduction.....	279
14.2	An overview of the Malaysian approach towards reception of international law	280
14.3	Obligations under international human rights treaties	284
14.4	Obligations under customary international law.....	287
14.5	Human Rights Commission of Malaysia Act 1999 and the role of SUHAKAM.....	290
14.6	Conclusion.....	292

Chapter 15

Fundamental Liberties under the Federal Constitution:

A Critical Analysis.....

Farid Sufian Shuaib

15.1	Introduction.....	293
15.2	Genesis of fundamental liberties.....	293

15.3 Judicial interpretation of fundamental liberties.....	296
15.4 A brief comparison with the ICCPR, ICESCR and others	303
15.5 Status and justiciability.....	308
15.6 Conclusion.....	309

Chapter 16

Contemporary Human Rights Issues in Malaysia..... 311

Farid Sufian Shuaib

16.1 Introduction.....	311
16.2 Gender equality	311
16.3 Detention without trial.....	312
16.4 Freedom of speech.....	315
16.5 Conclusion.....	317

PART III

Human Rights: Islamic Perspective

Chapter 17

Islamic Concept of Human Rights..... 321

Shamrahayu AAziz

17.1 Introduction.....	321
17.2 Islam and human nature	322
17.3 Objectives of human rights in Islam.....	324
17.4 Origin and sources of human rights in Islam.....	328
17.5 Duty-based concept.....	329
17.6 Conclusion.....	330

Chapter 18

Islamic Human Rights versus International Human

Rights Instruments 333

Umar A Oseni and Yusri Mohamad

18.1 Introduction.....	333
18.2 Underlying philosophy of Islamic human rights	335
18.2.1 Value-based rights in Islam: Human rights as human values.....	335
18.2.2 The Muslim ummah: Religious universalism versus cultural relativism	339
18.3 Areas of convergence between Islamic human rights and international human rights framework.....	344
18.3.1 Basic individual rights	344
18.3.2 Equality of men and women.....	345
18.3.3 Right to learning and education.....	345
18.3.4 Freedom of thought and conscience	345
18.3.5 Public and environmental rights.....	346

18.3.6	Right to work.....	346
18.3.7	Right to the presumption of innocence	346
18.4	Points of divergence	346
18.4.1	Does right to life include right to abortion in international law?	348
18.4.2	Gay marriage: Freedom from discrimination and rights to marriage and family life	350
18.4.3	Freedom of religion	352
18.4.4	Gender equality or gender equity?	353
18.5	Contemporary practice of Muslims majority countries and human rights issues.....	354
18.5.1	Efforts at establishing international Islamic human rights standards.....	355
18.5.2	Impact of European powers and globalisation on Islamic human rights	356
18.5.2.1	Normative hegemony and international human rights standards.....	357
18.5.2.2	Muslim nations: Adoption of Western values of human rights	357
18.5.2.3	Negative impact of international NGOs.....	358
18.5.2.4	Apologetic attitude in contemporary human rights issues	359
18.6	Conclusion.....	360

Chapter 19

Basic Human Rights in Islam 361

Shamrahayu A Aziz

19.1	Introduction.....	361
19.2	What are basic rights?	361
19.3	Freedom of religion.....	362
19.4	Right to life	364
19.5	Right to justice.....	366
19.6	Right to freedom	368
19.7	Conclusion.....	369

Chapter 20

Mechanisms for Protection and Enforcement of

Human Rights in Islam..... 371

Shamrahayu A Aziz and RK Salman

20.1	Introduction.....	371
20.2	The judiciary as a human right protection mechanism	371
20.2.1	The Islamic judiciary or tribunal	372
20.2.2	Independence of judiciary in Islam.....	373
20.3	Institution of <i>wali-al-mazalim</i>	375
20.4	<i>Hisbah</i> institution	378
20.4.1	Modern <i>hisbah</i> institution	380

20.4.2 Functions and powers of <i>hisbah</i>	381
20.4.3 The <i>Muhtasib</i>	383
20.5 Conclusion	386

Chapter 21

Islamic Criminal Law and Human Rights 389

Ramizah Wan Muhammad

21.1 Introduction	389
21.2 <i>Shari'ah</i> , <i>fiqh</i> and human rights	389
21.3 Islamic criminal law: Crimes and punishment	393
21.4 The objectives of Islamic punishment	394
21.5 Analysis of hudud punishment in relation to human rights	397
21.6 Conclusion	401

Chapter 22

Terrorism, Jihad and Human Rights in Islam 403

Mohd Hisham Mohd Kamal

22.1 Introduction	403
22.2 Islam is a peaceful religion	403
22.3 <i>Jihad</i> : Exclusively defensive	405
22.3.1 <i>Jihad</i> in defence of human rights	408
22.4 Terrorism	409
22.5 Conclusion	411

Chapter 23

Women's Rights in Islam 413

Najibah Mohd Zin

23.1 Introduction	413
23.2 An overview on the principles of equality between sexes	413
23.3 Women and children – basic rights	417
23.4 Marital rights and obligations	419
23.4.1 Right to marry and choose her spouse	420
23.4.2 Financial rights during marriage and after divorce	421
23.5 Rights to divorce	423
23.6 Women and custodial rights	426
23.7 Rights to private ownership	427
23.8 Right to inheritance	428
23.9 Political rights	429
23.10 Conclusion	431

Chapter 24

Freedom of Religion, Apostasy and Blasphemy in Islam 433

Mohd Hisham Mohd Kamal

24.1 Introduction	433
24.2 Freedom of religion	433
24.3 Issue of apostasy	435

24.3.1 Apostasy as a big sin and punishment for apostates	435
24.3.2 Modernists' misinterpretation of verses and <i>Hadith</i>	438
24.4 Issue of blasphemy	443
24.5 Conclusion.....	445
<i>Index</i>	447